

**SPECIAL COMMITTEE ON RIVERFRONT ACTIVITIES
AND BASEBALL**

August 7, 2007

**Aldermen Lopez, Gatsas,
Smith, DeVries, Roy**

4:15 PM

**Aldermanic Chambers
City Hall (3rd Floor)**

Chairman Lopez called the meeting to order.

The Clerk called the roll.

Present: Aldermen Lopez, Gatsas, DeVries, Roy (late)

Absent: Alderman Smith

Mssrs.: Mayor Guinta, Solicitor Clark, William Sanders, Finance Officer,
and J. Schaffer (Finance)

Chairman Lopez stated thank you very much. Before we get started I do want to say a couple of remarks and that's the project on the Riverfront. As the Committee went through a lot of documents in the last few years and the issue at hand is where the tax dollars were used for paying the bond in 2005, 2006 and 2007. So I'd like to keep that as the subject as we go along. I'm sure there's many a questions and many a statements that people will make. But if we keep the subject at hand I think we can get through this with understanding. With that I'd ask Mr. Sanders our Finance Officer if he stands by his report.

Mr. Sanders stated thank you Mr. Chairman. I did issue a report dated August the first of 2007 which had been previously provided to the Committee and is also included in the agenda material. I'd also handed out this evening, some revisions to Exhibits four and five. It's fairly minor changes but I had noted or it had been pointed out to me that there was a typographical error in Exhibit four where we were showing the additional minimum payment in 2007...

Chairman Lopez interrupted could you for the public purpose since this is on the TV, so the public knows what we are talking about, could you just highlight from the beginning of your report, so that everybody understands, the public out there understands what we are talking about.

Mr. Sanders stated I understand, so you do have the revisions, Exhibits four and five. The report was in response to a question that was asked at the last Aldermanic meeting as to the status of the financing of the Stadium project and whether tax revenues had been used or are being used to pay the development project. So I issued a report dated August first that provided some background material on the original bond issuance in fiscal December 2003, where we raised the \$27.5 million for the project. Part and parcel, later in 2005 we reached an agreement with 6 To 4 To 3, our LLC, which is the organization that manages the Fisher Cat baseball team, and they signed a lease agreement, I'll call it, on the stadium, as well as committed to paying a portion in addition to the lease payment of \$750,000, agreed to pay a portion of the or all of the additional debt above \$25 million. And also posted a Letter of Credit with the City for their obligations under that agreement. Another component of the transaction was in October and November of 2004. The City signed development contracts with three developers: Roedel Partners, Manchester Downtown Visions and Manchester Parkside Place for development of about fifteen acres of land surrounding the baseball field. We sold that land to the developers for \$1.4 million dollars of which that money after paying legal fees was deposited in the City's Special Revenue account. As part of the arrangement the developers agreed or contractually committed to \$40 million dollars of development around the sight. To date they have developed about \$26,045,000 on the site. A key part of the arrangement with the developers is up until they reach \$40 million of development on this site, they are responsible for a Make-Whole Agreement, where they, to the extend we do not collect tax revenues equal to their respective shares of the development project, they have to make payments to the City of Manchester, to make us whole, so to speak, for the taxes not yet received. And the report includes exhibits, which have what those Make-Whole Agreements carry. There were many provisions to the development contracts. I would just note a couple. One is that there were Letters of Credit posted by each of the developers in connection with their obligations under the Make-Whole Agreements, and we have utilized those Letters of Credit over the last couple of years in payment of the amounts due under the Make-Whole Agreements. As we stand here, as we sit here today, there are a couple of things to point out. First of all the main, the work is completed on the Roedel Project, which was the hotel project that was completed down there and that letter of credit has been, that whole entire Make-Whole Agreement is no longer operable for Roedel since they have exceeded actually their commitment on the hotel. they originally committed to \$8 million and they provided an \$11 million project, final assessed value. Exhibit 4 of the report sets forth on a fiscal year basis what the funded status of the project was in each fiscal year and I might quickly just turn to Exhibit 4, if I might very quickly. And just working from the bottom the schedule shows what the debt service was in each of the fiscal years since the project began in fiscal 2005 through fiscal 2007. The middle component of the schedule shows

the payments we received from the baseball operation, the minimum payment, the so call lease payment of \$750,000, and then the additional payment that they had to make for debt service above and beyond the \$25 million, in this case \$2.5 million. You can see there was a shortfall before the property tax revenues. We collected property tax revenues in each of the years and we have collected Make-Whole payments in each of the years. After all that's settled in each of the fiscal year periods, which is how the tax determination is made in terms of whether taxpayer money was used, I've concluded that in fiscal 2005, 2006 and 2007 that we came up short and in the aggregate had to use \$1,283,000 of taxpayer money to make the debt payments that were required. The report concludes by saying the following: that there really are three primary reasons for the shortfall. First the bonds were issued in 2003 in order that we might begin the construction of the stadium which was obviously required before we could collect any lease payments from the baseball team. In addition the development agreements were not put in place until October of 2004. Consequently any tax revenues and Make-Whole Payments did not begin until the 2005-2006 year, so for the first fiscal year of operation and even into the second there was a delay in collecting Make-Whole Payments. They were not contractually obligated to make them yet. An additional reason was that the Make-Whole revenue schedules, which are attached as Exhibit 3 to the report, ramp up over time. It's really not until the current fiscal year that were actually achieving the full benefit of the Make-Whole Agreements, and at this point some of the Make-Whole Agreements are no longer operable because they are meeting evaluation targets that were originally established. That's really the Manchester Parkside LLC Make-Whole Agreement that is providing significant funds at this time. And then third is that the development of the Manchester Parkside Place parcel has not really proceeded as quickly as originally anticipated. One final point that I should have made was that, in the current fiscal year that we're in, fiscal 2008, our current estimate is that we would have a modest shortfall of only about \$70,000 in this fiscal year and that is primarily because of the Make-Whole Agreements now really entering the fourth fiscal year are providing sufficient funds to offset the difference between taxes collected and what the \$40 million evaluation would provide for. I think that concludes my comments.

Chairman Lopez stated thank you very much, I will allow the Mayor Guinta because we have a discrepancy from the former Finance Officer Randy Sherman, who disputes, and I know he has been in contact with them and I think he wants to make a comment.

Alderman Gatsas stated excuse me I just have a couple of questions about the report itself. Bill, was there a draft report that you had?

Mr. Sanders stated yes.

Alderman Gatsas stated can you tell me who saw that draft report?

Mr. Sanders stated the draft report was seen by the gentleman sitting here with me this evening, the Tax Assessors, the City Solicitor and the Deputy City Solicitor. I reviewed it with the Chairman of the Committee, Mr. Lopez, and I reviewed it with Mayor Guinta and a member of his staff.

Alderman Gatsas stated were any changes made to the draft report by the recommendation of anybody that you talked to?

Mr. Sanders stated yes, I actually think it went through maybe a couple of drafts. Yes, the City Assessors had some input, the City Solicitors had some input, yes.

Alderman Gatsas stated is that normal that when you prepare, seeing that I asked for the document, is there any reason why you might not have called me on the draft that you had prepared that you had showed to other Aldermen or at least had all the Aldermen briefed on the draft?

Chairman Lopez interrupted he can answer the question but I just want to make a comment too. When they make a draft report they have the right to talk to staff and make changes to make sure things are correct, and I don't think it has been customary for everybody that makes a draft report, and staff to go to an Alderman. Plus the fact that...

Alderman Gatsas stated but Mr. Chairman they went to you. I feel a little offended about it that they went to you and that's what's happen on this project from day one.

Chairman Lopez stated Alderman, all I'm saying is the Board of Mayor and Aldermen requested it of the Finance Officer, as a Board. I as the Chairman, he consulted me because I said the minute I get the information I would call a meeting, and that's where we are. Mr. Sanders would you answer his question.

Mr. Sanders stated I was not familiar what the protocol should be in this situation; I believe that reviewing it Chairman and with the Mayor would be appropriate.

Alderman DeVries stated thank you Mr. Chairman. Can I ask you to go back to Exhibit 3, which is the developers' share of tax revenue, that schedule that runs from 2005 to 2029. Can you tell me what agreement that was attached to?

Mr. Sanders responded that is an exhibit to the Make-Whole Agreements with each of the developers.

Alderman DeVries stated was that part of the Make-Whole Agreement that was in front of us?

Mr. Sanders responded I believe so, yes. You mean when you approved the transaction originally? I believe that was approved, that final contract.

Alderman DeVries stated I just went back to review the Make-Whole Agreement and I didn't see that as an attachment with that schedule, so I wasn't sure at what point that came before the Aldermen.

Mr. Sanders stated okay that was merely presumption on my part.

Alderman DeVries stated do you have any information for why that went out through 2029, on the Make-Whole Agreement?

Mr. Sanders responded because that is the term of the bond that was issued. It was a 25 year bond. So it was intended to match the term and does match the term of the bond in terms of the timeline.

Alderman DeVries stated Mr. Clark do you have anything, did you find anything?

Mr. Tom Clark, City Solicitor, stated it is my understanding that Exhibit C was attached to each of the Make-Whole Agreements when it came through this Committee and to the Board.

Alderman DeVries stated maybe one of the other Aldermen can chime in, but I'm not sure that I remember seeing that attachment when the Make-Whole Agreement was before us. I assume it would have been sometime after the 2004 development agreement because that is about the time the land was transferring; it wouldn't have been part...

Mr. Clark stated the Make-Whole Agreement was dated September 30, 2004. So it would have been in that time frame.

Alderman DeVries stated and that is what I was looking...and it wasn't alluded to within any of the minutes as well, for the schedule, so I don't know that it was conversational with us.

Mr. Clark stated my recollection is that those schedules were attached to the agreements. I've got the closing book here that was provided by Bond Counsel and they are in there also.

Alderman DeVries stated maybe somebody can double check, because I just couldn't pull it off the copy. I guess the additional question that I have...the problem, the shortfall for Finance. The shortfall that we have, Mr. Sanders, apparently comes because the Make-Whole Agreement schedule calls out for a dollar amount that is actually less than the shortfall that we have, the difference that we have between taxable revenues and the amount needed for the bond payment. Is that correct?

Mr. Sanders responded that's correct, in the early years. That is correct.

Alderman DeVries stated and if you can just review...Was there another entity above and beyond that, that is adding into the need for tax dollars here?

Mr. Sanders stated as I mentioned, I would repeat there were really three reasons. One was that we had to borrow the money early to build the stadium, which wasn't the developers', directly, their issue. So we incurred basically a year of interest-only on that loan in 2005 without any lease agreement to cover it and without any Make-Whole payments cause the Make-Whole Agreement, as the solicitor just mentioned, didn't come into play until September of the following year. And then once the Make-Whole Agreements came in, because of that ramping up issue in the early years, they weren't sufficient. The combination of those two items gave rise to the shortfall in the early years.

Alderman DeVries stated if I could make one additional comment...The reason I went back to the three schedules is that meeting that we had here at the Riverfront in 2004 when the development agreement was before us, was rather lengthy and contentious and I know both Alderman Gatsas and I voted against it that evening, and one of the reasons for me was relinquishing the replenishment of the Letters of Credit. I thought then that that was a mistake and now it is certainly proving not to be our best negotiation at that point and time. That's why I was surprised that there was not anywhere within the minutes that I could find this particular schedule being before us. Because I think even on top of not replenishing the Letters of Credit it would appear that somebody could have counseled us to let us know, and I realize you weren't in Finance at that time, so I'm certainly not trying to address you on this, but somebody could have counseled us, and we could have had better discussion about what kind of margin we had developers' share. I think if we had had that clearly in front of us and somebody had focus us on that, we could have had better discussion back then and maybe tried to amend it, this particular schedule that is problematic today. Thank you.

Alderman Roy stated thank you Mr. Chairman, and again Bill thank you for this report. To echo some of Alderman Gatsas's comments, this playing out in the paper prior to this meeting doesn't make this Alderman incredibly happy, to be

honest with staff and fellow Aldermen and the public. But the two things I really want to focus on tonight are on page two of the report. The final line is the City Solicitor will provide information regarding Manchester Downtown Visions, LLC Letter of Credit at the BMA meeting August 7th. Tom, I don't know if you want address that at this meeting or if that is saved for the BMA meeting later, but I think it factors into our discussion, where we are with Downtown Visions.

Alderman Gatsas stated when we discuss it, I suggest that we recess to talk to legal council.

Alderman Roy stated thank you, Alderman.

Alderman Gatsas if we do it now or later, it's up to you.

Alderman Roy stated I'll leave that to the Chairman's purview. I do have other questions that are off of that subject so we may come back to that. Seeing how this did play out in the media, Bill, a couple of questions regarding Mr. Sherman's comments of lag. On Exhibit 1, you have that we make an interest-only payment in June of every year and then a principle and interest payment in December of every year. Is that accurate?

Mr. Sanders responded that's accurate.

Alderman Roy stated okay, and when do we receive or when do we transfer funds from the Make-Whole Agreements and receive baseball funds?

Mr. Sanders stated the Make-Whole payments are at the same time the tax bills are issued so that is in June and December. And the baseball revenue is billed in April and October.

Alderman Roy stated so the June and December mirror the payments, interest and principle payments, or is that when they are billed or is that when they are received?

Mr. Sanders responded that's when they're billed and essentially received. They've all been promptly paid.

Alderman Roy stated and then the baseball, the April billing...Is that to pay the June debt? Are they paid in advance or arrears?

Mr. Sanders stated they're paying one in advance and one in arrears. They pay at the beginning of the season and at the end of the season. And they pay \$375,000 each in two installments to get up to the \$750,000. They pay the additional

minimum payment at the same time, so they pay the \$750,000 plus the \$169,000 in two installments.

Alderman Roy stated okay. And the reason I'm asking those questions is one thing that the comment Mr. Sherman made in the paper made me think of is if there is a lag in payment then there is definitely opportunity cost of the dollars that we take from the General Fund to cover the debt and then reimburse later. If they were sitting in our accounts they would be getting interest for the taxpayer versus losing interest for the taxpayer, so I may at the end of this ask you to just give us a time accounting of what those dollars accumulate or could accumulate to over the 25 year bond, because that could also be substantial. The only other question I have for you as our Finance Officer is, I know you've probably reviewed a lot of minutes of this Committee and the full Board and talked to the Solicitor and the Chairman. Do you agree with some of the statements that were made earlier or by past employees that the taxpayer will pay nothing towards this ballpark? In other words, do you stand by the report as submitted?

Mr. Sanders responded yes, I personally stand behind the report as I submitted it and I would just like to add to that, the report obviously does not speak of the future; it speaks of specifically what has taking place in the last three years from a tax point of view. The project may generate sufficient revenues over the term of the bond to repay the \$1 million, the \$1.3 million shortfall and more. The future, I'm not predicting that here. That's one point I wanted to make. The second point I wanted to make that I maybe didn't make clearly enough in the report was the land was sold to the developers for about \$1.4 million and that money was placed in a special revenue account that did generate cash for the City and income for the City. It did not run through the General Fund. It was deferred into a special account for economic development so it did not serve to offset the tax rate. But it was a source of income directly attributable to this project. And one other item that I should have mentioned in the report, neglected to put in the report, was that the developers, in addition to paying the additional debt above the baseball stadium, I'm sorry the baseball team, in addition to paying for the debt above \$25 million, they also paid a \$1 million directly of their own money towards the development of Gill Stadium. And that was a positive transaction for the City in that nature. It didn't generate tax revenue and didn't offset the impact on the tax rate, but the improvement to Gill Stadium and the sale of the land, which were part of this transaction, were definite positives for the City and indirectly for the taxpayers, but in my focus report, they don't really generate an offset to the tax situation I was dealing with.

Alderman Roy stated I appreciate you saying that because it takes some of the sting out of what has been in the paper and what is being said, but it doesn't take the pain out of the fact that I believe at many meetings almost every Alderman on this

Committee and the full Board ask the question, what is the impact to the taxpayer, and we all receive the same answer: There will be no impact to the taxpayer. And I believe that's why so many Aldermen have their hackles up tonight that the fact that we read in the paper and get your report and now see a negative, not counting the purchase property, sales price and the one time revenue or other economic growth in the area and other tax base increases in the area. There are many, many positives, but those positives were supposed to come without this \$1.283 million negative and that's why I have a deep concern, and I see a lot of nodding heads over here, so I appreciate your report, and again welcome aboard. It's a great job, huh? Thank you, Mr. Chairman.

Chairman Lopez stated one of the things that I want to mention is on August 25, 2004, we talked about the debt service, the obligation, the seventy-five percent, the twenty percent and five percent in that meeting. One of the things I didn't see was the schedule that was laid out by Mr. Sanders in his document. Maybe we received it that night. I can't find it but maybe the Clerk did receive it, but I didn't. But the action speaks for itself, as far as the percentages that each identity was supposed to pay and the schedule is there. With that, unless anybody has any question of Mr. Sanders...

Alderman Gatsas stated I have a few. Mr. Sanders lets just do this in a simple way because I appreciate the way accountants move numbers around on balance sheets, but I like to try and do it the simplest way that I can understand it. What did we gathered for funding in 2005 from the three developers? How much money did we receive from them?

Mr. Sanders responded in fiscal 2005, and I'm looking at Exhibit 4, the developers made Make-Whole payments of \$77,156 in fiscal 2005 and they actually paid those property tax rather than use the \$44,669 because that was still under a lease agreement for a portion of that year. So the total received from the developers in fiscal 2005 was \$121,825.

Alderman Gatsas stated again please.

Mr. Sanders stated the total received in fiscal 2005 was \$121.825, from the developers.

Alderman Gatsas asked and what was the payment of the bond? That includes tax revenue too?

Mr. Sanders stated yes, I add it because in that particular year the tax revenue was paid by the developers. Yes, that was tax revenue and Make-Whole payments. The total debt service paid that year was \$1,705,000. I do need to point out that

included in there is this incremental \$2.5 million that is picked up by the baseball team, so if you excluded the baseball team increment it would be \$1,550,550.

Alderman Gatsas stated so the baseball team picked up \$200,000. Is that it?

Mr. Sanders stated yes \$155,000 to be exact sir.

Alderman Gatsas stated so where did the other \$1.3 million come from in '05?

Mr. Sanders stated in fiscal '05 the baseball team made a lease payment of \$750,000 for the '05 season. That was a portion of it, and then the remaining \$678,725 in fiscal 2005 was paid from tax revenue.

Alderman Gatsas stated when you say tax revenue, is that from...Where does it come from in tax revenue in that given year? Did you account for it or did you see it anywhere in the...

Mr. Sanders responded well it wasn't explicitly broken out as...but it becomes part of the tax rate and if it's not covered by other revenue sources, it has to be paid by the taxpayers through the tax rate.

Alderman Gatsas stated so what you are saying is that the actual balance that we would have had that year would have been an additional \$670,000 that we could have split between the rainy day fund and the adjustment. That's the only place it can come from.

Mr. Sanders stated keep in mind this is a shortfall. We had to make this up with tax revenue. If we hadn't had this transaction we would not have had to raise...we would not have had to collect \$670,000 of taxes.

Alderman Gatsas stated well that's not necessarily true, because the way the payments are and the way the tax rate is set, is before the fact of collecting revenue. So if we didn't tax people for it, then it should have been in that line item that we split with the rainy day account. It had to be additional funding.

Mr. Sanders stated that's correct sir.

Alderman Gatsas stated I don't see it as being that. If you can show me in the financials where that additional \$630,000 disappeared, then I could probably agree with your numbers but until you show me that, I don't agree with your numbers.

Mr. Sanders stated it was used for debt service payments.

Alderman Gatsas stated but it would have had to have reduced the amount of money that we have in this sheet that is called Fund Balance because in 2005 you showed a Fund Balance of \$750,000. That's General Fund; that's where the money had to come from.

Chairman Lopez stated well the Fund Balance...but in the operating budget versus the fixed cost, which is the debt service and the interest, apparently looks like, according to the report, the way I understand it, \$678,000 was put into the debt service for the bonds and interest in that particular fixed line item instead of the operating budget. Now in saying that...

Alderman Gatsas interrupted Alderman, you are trying to explain something from an accounting point of view.

Chairman Lopez stated not I'm not explaining anything from accounting point of view and I'm not an accountant...

Alderman Gatsas interrupted don't you agree with me that the \$ 670,000 had to come from somewhere to pay the bill, and it would have had to come from Fund Balance. That means the fund balance would have been and additional...instead of \$750,000, it would have had to have been \$1.3 or \$1.4 million.

Chairman Lopez stated now if I may, neither of us are an accountant, but understanding the budget like you do, the bond debt and the interest...apparently the \$678,000 was rolled into there when we received the budget from the Mayor's Office and from the Finance Office. Had we been told that \$678,000...The \$1.4 million that went into the Economic account I'm sure everybody on this Committee would take it out of the Economic account and we pay that debt and reduce the taxes by roughly 12 or 13 cents during that period of time that we're talking about. So we can maneuver the numbers any way we want, but those are the facts on the budget.

Alderman Gatsas stated well I don't know if those are the facts Alderman; those are your facts because just like you took one-time money and said you were giving back to taxpayers, we have different perceptions of that. My perception is we're going to go back and get at that one-time money next year. My perception is that the tax rate was set; we had revenues; either the Fund Balance had to increase or it had to decrease. That's a very clear thing. If all the bills were paid on the budget sheets and the revenues were raised and we didn't pay the debt we would have had \$1.3 or \$1.4 million in the Fund Balance, because it would have been over.

Alderman Roy stated Mr. Chairman, if I may, I know Tom Clark left the room for a second but if we could go to non-public, because I think there are personnel questions as well as some information that was going to come out regarding one of the developers which he had requested non-public session. I'm wondering if this would be a good time to do that. Unless we want to...The Mayor had ask to speak, I believe, and if he wants to speak, or there is round of questions regarding past statements in this Board Chamber that...

Chairman Lopez stated I think there is past statements on this in this Chamber. And as I said, neither of us are accountants, lawyers or planning directors either. We entrust people to provide us the information. Apparently there is a dispute, as I said in the beginning, from what the present Finance Officer is reporting to us and what the previous Finance Officer is saying in the paper. I haven't had the privilege to talk to him, but the Mayor has, and at this time I'll ask the Mayor to make his presentation.

Alderman Gatsas stated I think this report is incomplete because if somebody is going to put these numbers down somebody needs to show us where they derived them from. It's easy to say plus and minuses; it's easy to say the City has paid this; if you don't show us how that check was cut and where it was paid from to derive that, this is just a plus and minus game. You can't tell me that the City paid something...Where did it come from? What account was it paid out of? You have to show me a debit in that account that substantiates what you gave me for paperwork.

Chairman Lopez stated and I think we'll probably get to that point by having an audit of this whole thing. Mayor Guinta, please.

Mayor Guinta stated thank you, Mr. Chairman and members of the Board. I certainly concur with probably every member of this board and full Board of Aldermen, that this is certainly an issue that requires a serious amount of review and debate because there is a discrepancy based on statements that have been made by the previous Finance Administration and the current Finance Administration. I want to attempt to try to provide you with some documentation as to the discussions that I've had to this point, and I'll certainly share with you who I've talked to and I'd like to also share with you some recommendations that I have. So if I could have a couple of sheets handed out. Okay, there are three documents that I am having the Clerk hand out. First is a letter from me including three recommendations that I have. In that letter, attached is a letter from former Finance Officer Kevin Clougherty regarding his opinion of the issue. He sent that to me yesterday after some discussion regarding the matter. I'm also handing out the general obligation bond, that service schedule that in my opinion was handed out several years ago to the full Board of Mayor and Aldermen. I know there has

been some discussion by this Board as whether that did occur. And also the 8 ½ by 11 sheet is the Stadium Bond debt service. There are two types of analysis: one is a calendar year analysis that was done by Randy Sherman in preparation for this meeting, and the other is a fiscal year analysis which was done by Mr. Sanders. I should probably note that it's fair to say Mr. Sanders does not agree with the calendar year analysis nor does Randy Sherman agree with the fiscal year analysis, but to be fair I think everybody should have the numbers in front of them so we understand what the disagreement is. And the numbers before you would identify what Mr. Sanders has stated, that based on a fiscal year analysis he's claiming there is a shortfall. When you look and review at the bond documents and how the period of time when we sold the bond and when the first payments were due, a calendar year analysis in my view is appropriate. That's what has been conveyed, as far as I can say, to this Committee, dating back to August 25, 2004, the Committee meeting date that Chairman Lopez referenced. Based on the fact that we have two different analyses, I think it's fair to say that the first and foremost one recommendation I think is most appropriate. And the first recommendation is I think that our auditor, outside auditor McGladrey and Pullen, should review the entire scope of the project within the next sixty days and provide a report to us, so we have an independent entity who can review the scope of the entire project. And I think historically it's important for all parties reviewing the matter to understand the historic decisions that were made and some of the one time revenues that were received which were not, in my view, assumed in the analysis that was put together by Mr. Sanders. I think he does acknowledge some of it but not all of it. Secondly, I think, now I have talked to Mr. Basset at McGladrey and Pullen. This is within the scope of services that we can contract with that agency and he has shared with me that he sees no reason why McGladrey and Pullen would not do it. If asked, they would certainly review this. I think a sixty-day window is sufficient; it could probably happen sooner than that, but he thinks it's a fairly simple audit that would need to be done. Secondly, I do think that the Solicitor should do a complete review of the provisions in the bond documents, to give a report as to where we are and to ensure that we have the specific oversight of the future legal documents to insure we are adhering to all of them. To date, in my opinion, we have paid, according to the bond documents, what has been required of the City, so the City is certainly in no danger of not living up to payment expectations and agreements. And then third, I think that the Economic Development Director should be authorized to provide the Committee with a report updating the Aldermen on the current status of the project, but also to identify any actions that we as a City can take and might take to improve the overall performance of the development schedule and projects, to ensure that in future years we achieve as quickly as possible and as effectively as possible the taxable dollars that we relied on when this was voted on. If you have a moment to read through Mr. Clougherty's letter, he identifies some interesting points and I only refer to Mr. Clougherty because he was the Finance Officer at the time, and

he's got institutional and historical knowledge of this project. Essentially I think the crux of the debate comes down to an accounting procedure of analyzing it from a fiscal year stand point or from a calendar year stand point. Mr. Sanders has stated that he feels that his report is accurate, and that based on fiscal year, there is a shortfall. When you look at it from the calendar year standpoint, which is this sheet here, you will note there is no shortfall. Now both analyses are matters of opinion from different Finance Officers, so I do believe, and different Finance Administrations, I should say. So I think it is important for several things...number one for the Board of Mayor and Aldermen to understand really what the true financial picture is, but more importantly the people of the City who relied on this Board to make decisions, for them to understand exactly where we are. So I'd like to be as objective as I possibly can be as we move through this process because there are discrepancies between the two Financial Administrations, as to how we...where we currently stand. But I hope that this can shed some light on the situation and if you'd like, I would be happy to answer some questions.

Chairman Lopez stated your Honor, Finance Officer Kevin Clougherty didn't sign this letter. Do you have a signed letter on it?

Mayor Guinta stated he e-mailed it to me which is why he actually did not sign it but he can attest to its authenticity. He was not in the area when he wrote it.

Chairman Lopez stated Mr. Sanders, were you familiar with Kevin and Joanne Schaffer communication for her to do the schedule for...

Mr. Sanders stated yes I was familiar that Ms. Schaffer had provided a copy of a payment schedule to the Mayor, and I wasn't sure whether that was from Mr. Clougherty's request or not but I was fine with that.

Alderman Gatsas stated your Honor, if what Mr. Clougherty has given us on this paper, that means when we go out to 2028, when the debt service is suppose to be paid to zero, Mr. Sanders at that point is going to show he's got an overage of \$1.2 million in that year, in his fiscal year. Because he's catching it on the six months on the front end. Mr. Clougherty is saying it's a twelve month period. That means in 2008 his fiscal year is going to only be six months long. We're going to get at the back side. Because I'm looking at the bond payment. The principle payment in 2028 is \$1,726,330. So in that given year that payment is going to be diminished by what that \$1.7 million that came in in the front end. You're showing it six months shorter on your end from receiving, Mr. Sanders. Mr. Clougherty is saying they did their calculations based on a yearly basis because of the way the payments were coming in.

Mr. Sanders stated I would generally agree with what you said. The analysis that Mr. Sherman put together and is pulling money out of future years and applying them to the current year. If you look at the schedule...just for example if you look at calendar year 2004 the first column you can see that the debt service amount of \$979,000, which is paid in calendar 2004, is under this analysis going to be recouped during calendar year 2005. In calendar year 2005 as you know that goes to fiscal year 2006 actually so this analysis pulls money forward if everything worked out as originally planned. I don't know what the future will hold, but you are correct. The fiscal year analysis would show payback in the out years, in the last year that this analysis would not, because it would be taking advantage of it in the early periods.

Alderman Gatsas stated right but if I take a look and I guess it goes back to where I was originally. If I took a look at the debt service that we had from 2004 which was \$10,363,000, if the debt service was poured into our financial debt service, that number would have gone up for 2005, as a payment. The debt service actually went to \$9,750. It decreased, so there was no allocation in the budget in the debt service line that moved it to allow us to pay it with taxpayers' dollars.

Mr. Sanders stated I'll provide a separate analysis of the debt service line but it was included in the debt service budget for fiscal 2005.

Mayor Guinta stated except the...What I would add to that is this: The first debt service payment was issued December 1, 2004. Is that correct?

Mr. Sanders interjected that's correct.

Mayor Guinta stated that payment was \$979,539. That's the top left hand corner of the 2003 General Obligation bond schedule as well as the stadium bond debt service 05/07 schedule, top left corner. In this sheet it shows for 2005; in this sheet it shows in the top left that we paid it December 2004. Then as you walk down, I'm talking on the calendar year side of the debt service schedule, as you walk down calendar year '05 the payment we then received was \$750,000. It was a the lease payment from the stadium owner. So the net due the City was \$229,539. The property tax revenue collected was then \$73,1211, and at that point the Make-Whole payment calculation is established. A bill is issued and then the City received \$156,689. So we were paid a little over...We were plus \$270,000 that calendar year. So, and again I think Mr. Sanders would take issue with this calculation; however, when you refer back the Special Committee on Riverfront Activities Committee August 24, 2004 meeting, there is reference in that meeting about the change in the construction schedule. And the bond documents also cite the change and the acknowledgement by this Board that that was the process in for the debt service payment and the debt service receivables. So I think, that's why

you're seeing a calendar year schedule being provided to this Board and that's how it was likely reviewed or disseminated to this Board by Mr. Clougherty and Mr. Sherman up until their departure.

Alderman Roy stated thank you Mr. Chairman, thank you your Honor. One basic question I have is, and either Mayor or Mr. Sanders you can answer this. The General Obligation bond handout we just received with the shaded center area... Why does that not match up to Exhibit 1, which is the amortized schedule of payments? Even the years are different. So...

Mayor Guinta asked why does this not match up to what?

Alderman Roy stated Exhibit 1 in Mr. Sanders' report.

Mayor Guinta stated well this states...Exhibit 1 is the payment schedule. Is that what it is? So when you look at, it does match up. If you look at, on the left, Payment Date Year 2004, June and December. You go across to the column under \$25 million for the debt service, under Baseball Stadium-City there's the \$979,539.18. That matches up with this schedule. We ended up paying it in December of '04 instead of sometime in '05, so this sheet reflects '05; we ended up making the payment a month early.

Mr. Sanders stated I just wanted to clarify one point that I think could be confusing on this schedule that was issued I think in prior years. And that is, at the top of the left column it says Fiscal Year Debt Service, and that's not the fiscal year debt service, that's the calendar year debt service. And Exhibit 1 is the fiscal year debt service of December and June, and that's what I've audited to and traced to the books of account. At one time I thought the schedule with the shaded area on it was the official debt service schedule but it is on a calendar year basis and not on a fiscal year basis and that does create some confusion.

Mayor Guinta asked so this document you are saying should say calendar year instead of fiscal year?

Mr. Sanders responded yes it should, Your Honor.

Alderman Roy stated just to follow up, Mayor. Again, getting Kevin Clougherty's letter...He's one of my constituents and I've always had the utmost respect for Kevin, but I do believe as the Mayor suggested a full accounting, because as I stated earlier, simply the opportunity cost, if we're using taxpayer funds and then reimbursing them there is an interest payment that's not being realized to the taxpayer. And to me that is a cost to the taxpayer. It's money that, as Alderman Gatsas said, should end up in the fund balance in the following year as other

interest earned through the City ends up on our balance sheet. Mr. Sanders, where in our CAFR would that debt service, or where would that initial \$678,000 from from fiscal year '05, where would have that ended up in our '05 CAFR?

Mr. Sanders stated the CAFR does not separately identify the amount or disclose it. In its simplest form our debt service number would include in that fiscal year \$1,705,000 for all the debt service that was paid on the project. And then basically our revenue would include the payments received from the baseball team, any Make-Whole payments we received from the developers and then the residual amount would show up in tax receipts. So that's why the auditor would never have separately accounted for this or separately identified that \$678,000 figure. You wouldn't be able see it discreetly in the CAFR. It's spread between two areas: revenues and the debt service line.

Alderman Roy stated I will reiterate to the Chairman that at some point in this meeting I would ask for a non-public session.

Chairman Lopez asked you want to go non-public?

Alderman Roy stated whenever it's convenient to the Chair.

Chairman Lopez stated I've just got one question in reference to the calendar year: Why isn't the \$2.5 million...Does it mean anything...why it's not included in the calendar year versus the...and Mr. Sanders is...so we're talking apples and apples for the \$2.5 million debt? Is there anybody who can answer that? Joanne Schaffer, you made the report. I just wanted to clarify that.

Joanne Schaffer stated it's because those numbers are identical to the numbers that are reflected under the fiscal '05 section. That's the \$2.5 million that was borrowed for Drew Webber and for all of the Gill Stadium improvements. So there's no disparity or discrepancy there.

Alderman Gatsas asked Mr. Sanders, can you tell me when the bond...what's the due date on the bonds?

Mr. Sanders responded the bonds have...Do you mean during the year, when they're paid?

Alderman Gatsas responded I know when they're paid. Go ahead. You tell me when they're paid.

Mr. Sanders stated a payment is made on June 1st, and a payment is made on December 1st. The June payment is interest-only, and the December payment has

interest and principal. And the bond is payable in that form from 2004 through December of 2028.

Alderman Gatsas asked was that date changed? Were those dates changed?

Mr. Sanders responded not that I'm aware of.

Mayor Guinta stated no, but I believe, and maybe Mr. Clark can verify this: The sell date...Those dates were impacted by the date that we sold the bond. So it was a moving target, I believe.

Alderman Gatsas stated correct. And the dates are actually the date payment bonds are dated for August 15th and February 15th, which would put them in the same fiscal year, but different calendar years. Same calendar years, different fiscal years.

Chairman Lopez stated it's like a bowl of spaghetti to try to figure out...

Mayor Guinta stated this is from a document of June 10, 2003 from bond counsel, bond debt service.

Chairman Lopez stated I'm going to call a recess to consult with counsel. Tom, I'm going to call a recess to consult with you.

Alderman Gatsas asked and what are we going into non-public session about?

Alderman Roy stated I have a question regarding Tom's statement in Mr. Sanders' report regarding Make-Whole, as well as a personnel question.

Chairman Lopez asked does that need any non-public?

Mr. Tom Clark, City Solicitor, stated I'm not sure about the personnel question. My understanding is that you want a recess to meet with me to talk about the Downtown Visions Letter of Credit.

Alderman Gatsas echoed to talk about the Downtown Visions Letter of Credit?

Mr. Clark stated yes. That's the question he had asked me. There's a statement in Mr. Sanders' report that says that I'd be available to provide information on that.

Alderman Gatsas stated again, I didn't hear you, Tom.

Mr. Clark repeated there's a statement in Mr. Sanders' report that my office would be available to provide information on the Letter of Credit. I suggested that we do it under recess.

Alderman Gatsas asked is there something in that letter of credit that is not public?

Mr. Clark responded no, but there is a lawsuit involved between Downtown Visions and abutting owners, so I would prefer to do this giving you legal advice, and then you can do with it what you feel afterwards.

Alderman Gatsas stated tell me again what it is. It's a lawsuit between whom?

Mr. Clark stated there is a lawsuit between Mr. Bluen and Downtown Visions that has not been finalized yet.

Chairman Lopez asked what would you recommend, City Solicitor?

Mr. Clark responded I'd be happy to meet with the Committee in recess session for a couple of minutes.

Chairman Lopez announced a five-minute recess to meet with the City Solicitor.

Chairman Lopez called the meeting back to order. He stated I don't think we're going to solve anything here as far as the accounting between the two Finance Officers. As I said in the beginning, an audit would be the best way to go. The Mayor has also recommended we do an audit and instruct Tom Clark to review all the bond documents and other things, and also at the same time, the Economic Director should be authorized to provide the Committee with a report. I instructed him, when he first became the Economic Developer, that he was responsible for that area down here, and he's fairly familiar and he has been working with Mr. Chinburg and it needs a lot more work down there in order to get those condos built. So unless there's some other questions...

Alderman Gatsas stated Mr. Sanders, what I'd like from you is some documentation on dates that show for the shortfalls in the payments of these bonds, and whether they were in debt service, because obviously a check can't be cut to pay for something unless there's a revenue alongside it. Somewhere in there, there has got to be...if there's a payment, there's got to be a debit. The debit and the credit have to line up. So if you're telling me it was paid out of fund balance, or it was paid out of debt service, then I need to see the distinguishing differences in debt service and how they were aligned in those years, starting in 2004, going forward. Because until you can show me that, I don't believe that the taxpayers' dollars have gone toward this project, even though I voted against the

project, and was pretty vocal about whether taxpayers' dollars should be paying for it. But looking at the documentation, it's got to come from Fund Balance or some other account that none of us are aware of.

Chairman Lopez stated anyway, if you provide that document to the Alderman; send a copy to all the other Aldermen so that we all have the same information.

Alderman Gatsas stated without a draft.

Mr. Sanders stated yes, sir.

Alderman Gatsas stated thank you.

Alderman DeVries stated in addition to the independent audit, if I could ask if we could have an independent review to try to establish the inconsistency of some of the comments that have been made about the replenishment of our Letter of Credit, because it seemed clear to me that that went away with the development agreement in 2004. But we've had consistently since then comments that would lead us to believe that there still is the ability to have some of those replenished. So if we could have, if necessary, an external review to both document inconsistencies within the minutes and to have outside legal, financial, whatever is necessary, review the documents regarding our replenishment of the Letters of Credit so we can once, for all, put that to bed, that would be helpful as well.

Chairman Lopez asked do you understand what she needs, City Solicitor?

Mr. Clark stated I'm not sure what she means by an outside legal analysis of the minutes. I mean, my office, along with the City Clerk's office, can review the minutes and get a report back to the Committee.

Alderman DeVries asked is this as simple as just reviewing the minutes, though, to establish whether the Letters of Credit can be replenished or not?

Mr. Clark responded it was my understanding you were looking for an analysis of what has been told to the Committee. I mean, the agreements themselves...It was clearly stated by Attorney McCabe that they're not replenishable.

Alderman DeVries stated let me try carefully to expand on this. If we were given advice as a Board or as a Committee, that led us to believe from prior employees that those letters can be replenished, I would have to assume that they were giving that advice based on what they felt to be their best knowledge, that there was a replenishment. I understand from reviewing the minutes from Walter McCabe, it was pretty clear that that went away in 2004. I'm not sure if you agree with that or

not, but there seems to be, from prior financial individuals, a discrepancy. So I am looking for somebody outside to review whether or not we have the ability to have them replenished, since Finance and Legal from the City, be it past or present, don't seem to agree.

Mr. Clark stated we can have these documents looked at by an outside law firm. I agree with Mr. McCabe that they're not replenishable.

Alderman DeVries stated it's rather cumbersome for us to have many years of evidence and minutes, advice that is given to us to the contrary. Then we are told that, and I would hope that that advice was given to us for some other reason that maybe is being overlooked.

Mr. Clark stated let us review the minutes. I'll talk to you further and we'll see what the next step is after that.

Chairman Lopez stated maybe one thing would help: In the original master lease, they talk about Letters of Credit versus the execution of the contract in 2004. That might be the difference between the master lease and the execution when the final document on the Letters of Credit was issued where he indicated in 2004 that they would not be.

Mr. Clark stated there is a difference.

Chairman Lopez stated there is a difference, so I think that would probably clear up some information. At one time the Letters of Credit were, and then when the execution happened they were taken away, and we voted as a Committee and a full Board to accept that, so just to point that out to the Alderman. Alderman Duval, you had a question.

Alderman Duval stated I yield to Committee Member Gatsas. I noticed he had his hand up.

Alderman Gatsas stated my question is, there was a statement made about Walter McCabe. Is somebody talking about the transcript when he was here before this Board, or this Committee?

Alderman DeVries responded yes.

Alderman Gatsas continued that in 2004 he said those Letters of Credit were not replenishable?

Mr. Clark stated I don't have the minutes in front of me, but that's my understanding, yes.

Alderman Gatsas stated and then I think...but that was before the Make-Whole agreement was put in place, I believe.

Mr. Clark stated you're stretching my memory, Alderman. I couldn't tell you.

Alderman Gatsas stated I would like to see that timeline. Somebody can construct a timeline of when those things were done, because I think that was the line of questioning I took him down, about the letters of agreement and making whole. And he was very emphatic that you could not make them whole again, but I think that the questioning comes back to the Make-Whole agreements. And once they were put in place, which was at a later date, because that deal changed from when he originally spoke to us, my belief is.

Alderman DeVries stated if I could just follow up on that, because that's exactly why we have a discrepancy of information and I'm hoping that if Tom Clark is of the same philosophy as Walter McCabe, that maybe bringing somebody external to give it a look/see of all the documents we can for once and for all put to rest. Whether the Letter of Credit or the Make-Whole has precedence here.

Alderman Gatsas stated if you look at it, that's the documentation that I was pressing him pretty hard on, that I said it was a disadvantage for the City.

Chairman Lopez stated that's correct.

Mr. Clark stated I'll take a look at it for you, Alderman.

Chairman Lopez stated all right. We'll get the blow-by-blow, so to speak, of the minutes and what happened.

Alderman Duval stated I certainly appreciate the tenor of the Mayor's message tonight to the Committee, and certainly what the Committee members have brought to the discussion tonight relative to these matters. As compared to the bit of chaos that occurred earlier in the week relative to this. Certainly the Committee is right to seek and get full and complete transparency of the budgeting and accounting matters as it relates to the project, and certainly I for one appreciate that as a member that's new to this whole project. I certainly don't have the historical perspective that each of you have that actually voted on it. With respect to what the Mayor has proposed tonight to the Committee, does that require action of this Committee or the full Board, Mr. Chairman?

Chairman Lopez responded full Board.

Deputy City Clerk Carol Johnson stated so the Committee really should be making a motion to recommend...

Chairman Lopez stated yes, the Committee will be making a motion that in reference to the letter the Mayor has submitted to the Committee on Item 1, Independent Audit; Item 2, Concurrent Legal Review; and Item 3, that the Economic Director get up to speed and direct as to property down there with Chinburg's operation.

Alderman Gatsas stated Mr. Chairman, I don't know if we're prepared to go to that point and spend that money. I think first Mr. Sanders has got to show us somewhere in documentation that this money was paid for with taxpayers' dollars. Rather than just doing a financial analysis, those monies have to come from somewhere. Somebody needs to show me what account they were drawn from, how they were drawn, and how they were paid to reflect taxpayers' dollars. Until we do that, there's no reason to do an independent audit. Because if he goes back and says they weren't drawn on City dollars, or they weren't drawn off of debt service, the debt service didn't grow by \$1.7 million in any budget, and it had to come from fund balance, that's what we need to know. If it was paid from Fund Balance, then it was paid for by taxpayers' dollars. And whoever signed the MS25 form knew that.

Chairman Lopez stated and I agree with you, Alderman, but the problem is it's not that simple. We're going to end up...We have a dispute between two professional accounting people. We need to have a referee. I don't know how both can be right. I'm not an accountant. So I think that's the course we should take and get an audit done so that we have the information, and the only other requirement I would require is that the auditor report to this Committee so all our questions can be answered so that he doesn't say later on, nobody asked me to look at that. So that we get a complete report on this whole problem that we have at hand. We want to remember, the stadium was built, the hotel was built, the condos are going up. And you made a very good, valid statement as far as I'm concerned: We might be paying up front but on the end we're going to make out, but the taxpayers still paid for it. In the end the taxpayers will get the break. That's not the solution that was given to us when we started this project.

Alderman Gatsas stated that's only an analysis from what I'm looking at on the paperwork that was passed out. Somebody needs to show me today. If this were my company, I'd get an answer by tomorrow, to say to me, okay, you made a statement, show me where it is.

Chairman Lopez stated I'll entertain a motion to have the...

Alderman Duval stated Mr. Chairman, if I might. If the full Board is going to be voting on this tonight certainly I think that the Mayor could probably weigh in on Alderman Gatsas's request, because I tend to agree with Alderman Gatsas. If there's an opportunity, or if Mr. Sanders can provide to us the details that Alderman Gatsas is looking for, then we might be able to avoid the cost of an audit. If Mr. Sanders can provide that to the Committee members in a timely fashion, certainly not much is going to change between now and that time.

Chairman Lopez stated no, and I agree with you. It doesn't make a difference at this stage of the game. Whatever is provided by Mr. Sanders, I don't think is going to satisfy all the Aldermen, number one. And I don't think it's going to satisfy the Mayor because you have another Finance Officer that they're in communication with, a former Finance Officer who disagrees. And the only way to solve this is to get a referee. And so no matter what Mr. Sanders is providing, I mean, we're not accepting his document tonight, so I'm asking the Committee to do 1, 2 and 3 of the Mayor's letter and at the same time instruct the auditor to report to this Committee at a given time, so that the questions that we have are fully covered for the protection of what we think for the taxpayers is the best interest.

Alderman Duval stated Mr. Chairman, I agree with what you're saying. I think it's just a matter of approach and timing. You know, I think that if we can wait for additional information, if Mr. Sanders agrees to provide it or if he's capable of providing it within a reasonable timeframe, then at that point it might satisfy the request of the Committee member and then move to audit. I think that would be helpful information to obtain. I tend to agree with all the recommendations of the Mayor, by the way, and I plan to support those, but I would appreciate feedback from the Mayor at the full Board meeting tonight in reaction to what Alderman Gatsas is requesting.

Chairman Lopez stated I have one more question for Mr. Sanders. Do you recommend or not recommend that we have an audit?

Mr. Sanders responded I would recommend that there be an audit performed, yes. I think it would be a way to completely validate one or the other and bring forth any other issues that I would have missed or Mr. Sherman may have missed.

Chairman Lopez stated thank you. With that, I'll entertain a motion.

Alderman DeVries stated I'll make a motion that we follow the three steps outlined in the Mayor's letter to us dated August 7th, and ask if we add to that, if needed, the outside legal review as well, after the in-house legal review.

Chairman Lopez added and the auditor report to this Committee for any questions before he starts the audit?

Alderman DeVries responded sure.

The motion was seconded by Alderman Roy.

Alderman Gatsas stated I would like to amend it so that...or a friendly amendment that says that Mr. Sanders has a week to justify his numbers. There's no reason for the City...Maybe he comes back and says, I made a mistake. There's no reason to put exposure to the City for additional costs if somebody is looking at something and says, no it's not in the debt service or yes it is. If it was in there and it was paid with taxpayers' dollars, then I can understand. But looking at the debt service numbers, the number from 2004 drops down. Now if there was an increase in the debt service, I could understand it. If we retired debt it should have gone down, but what he's saying is that there was an increase in that debt service line to pay the bond.

Alderman Roy stated correct. If we retired \$2 million in debt and it goes up \$678,000 it still overall goes down.

Alderman Gatsas stated it went down \$300,000 from '04 to '05.

Chairman Lopez stated that's why we need an audit. A motion is on the floor.

Alderman DeVries stated I think we have between now and this evening when we'll be receiving the report for the Mayor to weigh in as Alderman Duval...and we can have the conversation again there as to whether we should amend this.

Chairman Lopez stated okay, the motion is to move and recommend to the full Board that we follow the procedures as outlined by the motion, and called for a vote. The motion carried. Alderman Gatsas voted in opposition.

There being no further business, on motion of Alderman Roy, duly seconded by Alderman DeVries, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee